

DISCIPLINE HEARING OFFICER REPORT
U.S. DEPARTMENT OF JUSTICE

BP-S305.052 MAY 94
FEDERAL BUREAU OF PRISONS

INSTITUTION	FCI McKean, Pennsylvania		INCIDENT REPORT NUMBER		1343334
INMATE NAME	Santiago, Ernie		REG NO	90304-038	UNIT D-A
DATE OF INCIDENT	February 9, 2005		DATE OF INCIDENT REPORT		05-19-2005
OFFENSE CODE(S)	212				
SUMMARY OF CHARGES	Encouraging a Group Demonstration				
I. NOTICE OF CHARGE(S)					
A. Advanced written notice of charge (copy of Incident Report) was given to inmate on (date) 05-19-2005 at (time) 1716 (by staff member) R. Scott, Lieutenant					
B. The DHO Hearing was held on (date) 10-05-2005 at (time) 1330					
C. The inmate was advised of his/her rights before the DHO by (staff member):					
D. Tronetti, Unit Manager on (date) 06-16-2005 and a copy of the advisement of rights form is attached.					
II. STAFF REPRESENTATIVE					
A. Inmate waived right to staff representative.			Yes:	XXX	No:
B. Inmate requested staff representative and N/A appeared.					
C. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that:					
N/A					
D. Staff representative			N/A		was appointed.
E. Staff representative statement:					
N/A					
III. PRESENTATION OF EVIDENCE					
A. Inmate admits		denies	X	the charge(s).	
B. Summary of inmate statement:					
Inmate Santiago stated the report was not true and was not involved in encouraging others to be involved in any type of group demonstration. He stated he believes he is being singled out by Lt. Pfister because he refused to be interviewed by him on May 10, 2005. He stated that he was then and is still willing to take a polygraph test to prove he wasn't involved in this incident. He went on to state that he was never caught with a copy of the alleged letter. He stated that he doesn't believe he was in the Law Library on the time and date in question, however, if he was, he has numerous on going legal issues and could have been copying documents related to one of those issues. He stated that he has been here for four years and all he has done was program. He stated he has been incarcerated for over 11 years and has never received an incident report for anything like this.					
C. Witness(es):					
1. The inmate requested witness(es).			Yes:		No: XXX

Exhibit C

2. The following persons were called as witnesses at this hearing and appeared. (Include each witnesses' name, title, reg number and statement as appropriate.)					
N/A					
3. The following persons requested were not called for the reason(s) given.					
N/A					
4. Unavailable witnesses were requested to submit written statements and those statements received were considered.	Yes		No		N/A
D. Documentary Evidence: In addition to the Incident Report and Investigation, the DHO considered the following documents:					
SIS report from Lt. Pfister dated May 19, 2005.					
E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because:					
The DHO relied on confidential information from two separate sources. The DHO determined the these sources to be reliable as the information they provided indicating your involvement in encouraging others to participate in a group demonstration was corroborated by other independent sources.					
IV. FINDINGS OF THE DHO					
X	A. The act(acts) was(were) committed as charged.				
	B. The following act was committed:				
	C. No prohibited act was committed: Expunge according to Inmate Discipline PS.				
V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.)					
<p>The written report of Lt. Pfister documents that on May 19, 2005, an investigation was concluded into your involvement in a Food Strike that took place on February 10, 2005, at FCI McKean. You were making copies of the letter telling other inmates not to go to lunch on February 10, 2005.</p> <p>You offered for your defense against this charge that the report was not true. You stated that you were not involved in trying to encourage other inmates to be involved in a group demonstration. You stated that you don't smoke or stay out for late right and you would have no reason to be involved in that type of behavior. Additionally, you stated you feel you are being set up by Lt. Pfister because you refused to be interviewed by him on May 10, 2005. You stated that he is only relying on information from his "rats" and because you don't know exactly what they said, you can't defend yourself. You stated that you are willing to take a polygraph test to prove you were not involved in this incident. You also stated that you don't believe you were in the Law Library on the time and date in question, however, even if you were, you are presently involved in numerous legal issues and could have been copying documents related to one of those issues. You stated that you were never found in possession of the letter in question. You stated that you have been at this institution for four years and all you have done is program. You completed nine education classes and were expected to complete your apprenticeship in Culinary Arts sometime this year. Finally, you stated you have been incarcerated for over 11 years and have never been involved in this type of incident.</p>					

Exhibit C

The DHO gave little weight to your defense as you presented no documentary evidence or witness testimony to support your defense. The DHO gave greater weight to the information provided by two confidential sources which have been determined to be reliable. Both of these sources indicated that you were making copies of a letter stating not to go to lunch and why. You were observed passing this letter to other inmates. The DHO found you committed the prohibited act of Encouraging a Group Demonstration, code 212.

VI. SANCTION OR ACTION TAKEN

Disallow Good Conduct Time: 27 days GCT, Comp 010, SRA
Recommend a Disciplinary Transfer

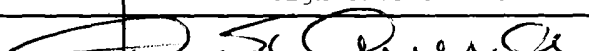
VII. REASON FOR SANCTION OR ACTION TAKEN

Encouraging a Group Demonstration reveals your willingness to break the rules for your own personal satisfaction. Misbehavior of this nature impairs staffs' ability to maintain a safe and secure facility and will not be tolerated. Encouraging other to be involved in a group demonstration could lead to a major disturbance within the institution. A major disturbance could lead to serious injury to staff and other inmates as well a damage to government property. As a result of your Encouraging a Group Demonstration, I am disallow 27 days GCT and recommending a Disciplinary Transfer to punish you for your actions, deter future violations of this prohibited act and to impress upon you that misconduct of this nature will result in an extension of your period of incarceration.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on, action and reasons for the action. The inmate has been advised of his right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

Yes	X	No
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IX. DISCIPLINE HEARING OFFICER

Printed Name of DHO	Signature of DHO	Date
Daniel Schneider		10-11-2005

Report delivered to inmate by:	DATE	TIME
	10/12/05	1600

(This form may be replicated in WP)

Replaces BP-304(52) of JAN 88

Exhibit C